



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

MAY 3 2012

SENT ELECTRONICALLY AND VIA CERTIFIED MAIL

Paul Glader, Environmental Services Manager
Hecla Mining Company
6500 Mineral Drive, Suite 200
Coeur d'Alene, ID 83815-9408

Re: In the Matter of Hecla Mining Company, Apex Site,
Docket No.RCRA-08-99-06 Termination Request
Response

Dear Mr. Glader:

This letter responds to your request of April 26, 2011, to terminate the Administrative Order on Consent (order) entered into by Hecla Mining Company (Hecla) and the U.S. Environmental Protection Agency (EPA) in 2004 pertaining to the Apex Site Pond 2 (Site). The EPA appreciates Hecla's commitment to performing the specific closure activities at the Site and understands Hecla's desire to terminate the order. However, in consulting with the Shivwits Band of Paiute Indian Tribe (Band) and the Bureau of Indian Affairs (BIA) regarding the proposed order closure, there are continuing concerns associated with the Site's future protectiveness that first need to be addressed. The EPA as a result has determined to stay closing the order until alternative site monitoring mechanisms can be established to ensure long-term environmental and public health protection. To expedite closure of the order, the EPA encourages Hecla to work with the Band, the EPA and the Bureau of Indian Affairs (BIA) to develop a long-term site monitoring and maintenance plan.

As you know, the amendment to the lease in 1995 between Hecla and the Band provided that the Site serve as a permanent storage impoundment for mined ores, wastes, contaminated soils and such other substances in and around Hecla's and its predecessors' former industrial operations. The EPA approved capping the wastepile as a final remedy consistent with the lease after determining the method to be the most economically feasible and sufficiently protective of human health and the environment. In order for the cap to remain protective, the integrity of the cap must be continually monitored and public access must be prevented.

The EPA has committed to work collaboratively with the Band and BIA on its behalf to explore alternative monitoring and maintenance mechanisms with the Band and BIA prior to closing the order. The EPA encourages the Band, or BIA on its behalf as the tribal lands trustee, to revisit reinstating the 1995 lease agreement with Hecla to provide for additional site improvements and/or protections including, but not limited to, adequate monitoring, maintenance and compensation for as long as the wastepile exists. Alternatively, Hecla and the Band may pursue a long-term monitoring and maintenance agreement independent of the lease if preferable to both parties. It is important to the Band and the

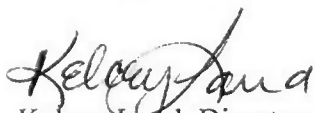
federal trustees that Hecla commit to perform and/or fund in perpetuity the monitoring previously done under the order and maintain the cap, fencing, signage and other physical improvements.

The BIA, consistent with its trust responsibility, recently contracted with ATC Associates, Inc. to develop a scope of work for the Site. A copy of ATC's report dated September 22, 2011, is enclosed for your information. BIA currently is contracting with another consultant to prepare long-term monitoring and maintenance recommendations based on ATC's findings. The EPA, Band and BIA tentatively plan to meet with the contractor on site June 8, 2012 to discuss the recommendations proposed. Hecla is invited to attend the site visit to facilitate resolving the Band's monitoring concerns. This opportunity would allow Hecla to discuss long-term monitoring commitments and the status of the lease with the Band. The EPA encourages Hecla to initiate lease discussions with the Band and/or BIA in advance of the site visit.

Please be assured that the EPA is still considering Hecla's closure request. EPA must, however, based on EPA's mission to protect public health and the environment and trust responsibility to the Band, balance the terms of the order with the concerns of the Band. It is imperative that Hecla, and the federal agencies to the extent appropriate, ensure that the Site does not now or ever pose a threat to the Shivwits Indian community because the surface lease provides that the wastepile may be permanently stored on Site. The EPA will continue to regulate and inspect the Site at regular intervals to ensure continued compliance with RCRA and other federal environmental laws, but it first needs to address, to the extent practicable, the Band's concerns.

Please do not hesitate to contact either of us if you have any questions or concerns regarding EPA's decision in this matter. If your staff have questions or wish to discuss how Hecla can assist the Band in providing long-term site monitoring and maintenance, the most knowledgeable persons on our staffs regarding this issue are David Duster, Technical Enforcement Program, (303) 312-6665, and Amy Swanson, Legal Enforcement Program, (303) 312-6906. Your assistance in successfully resolving this matter is appreciated.

Sincerely,



Kelcey Land, Director
RCRA/CERCLA Technical Enforcement Program

Sincerely,



Matthew Cohn, Director
Legal Enforcement Program

Enc: ATC Report

cc: Chris Gypton, Project Manager, Hecla Mining Company
Charlotte Lomeli, Shivwits Band of Paiute Chairwoman
John Krause, BIA Western Regional Office
Waylon Denny, BIA Western Regional Office
Carolyn Bowker, BIA Western Regional Office
Kellie Young Bear, BIA Southern Paiute Agency
Paul Schafely, BIA Southern Paiute Agency
Gaylord Robb, Indian Health Services